



Federal Employees' Compensation Act<sup>3</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>4</sup>

### **ISSUE**

The issue is whether appellant has met his burden of proof to establish a left shoulder condition causally related to the accepted November 15, 2018 employment incident.

### **FACTUAL HISTORY**

On November 24, 2018 appellant, then a 66-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on November 15, 2018, he sustained a ruptured left biceps tendon when he reached forward to ring a doorbell with his left arm that he was also using to cradle three lightweight packages while in the performance of duty. On the reverse side of the claim form, the employing establishment indicated that he was injured in the performance of duty on November 15, 2018. Appellant stopped work on November 21, 2018.

In a November 22, 2018 report, a practitioner whose signature is illegible<sup>5</sup> diagnosed a left biceps tendon rupture sustained on November 15, 2018.<sup>6</sup>

In a November 28, 2018 report, Dr. Seth A. Cheatham, a Board-certified orthopedic surgeon, noted that appellant felt a pop in his left shoulder when he rang a doorbell while at work on November 15, 2018. On examination, Dr. Cheatham noted a Popeye deformity (biceps contraction), diminished external rotation strength, and a positive Jobe's test. He diagnosed a rupture of the long head of the left biceps tendon and possible concurrent rotator cuff injury. In a report dated December 13, 2018, Dr. Cheatham recommended arthroscopic rotator cuff and tendon repair with open distal clavicle excision.

In a December 17, 2018 duty status report (Form CA-17), Dr. Cheatham diagnosed a left rotator cuff tear and proximal biceps tendon rupture sustained on November 15, 2018, when

---

<sup>3</sup> 5 U.S.C. § 8101 *et seq.*

<sup>4</sup> The Board notes that, following the September 17, 2019 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

<sup>5</sup> The report contains a summary of a visit to a physician assistant, Alyssa Waitkus.

<sup>6</sup> November 22, 2018 x-rays of the left shoulder demonstrated mild acromioclavicular joint space narrowing with subchondral sclerosis and small dorsal osteophyte. November 22, 2018 x-rays of the left elbow were within normal limits. November 28 and December 4, 2018 x-rays of the left humerus demonstrated no acute process. A December 11, 2018 MRI scan of the left shoulder demonstrated a large full-thickness tear of the left supraspinatus and infraspinatus tendons with moderate muscle atrophy, subscapularis tendinopathy with a partial thickness articular-sided tear of the superior fibers, a partial tear of the long head of the biceps tendon, and mild acromioclavicular joint arthritis.

appellant reached upward to ring a doorbell while holding packages in his left arm. He restricted lifting to 15 pounds.

In a February 7, 2019 development letter, OWCP notified appellant that when his claim was received it appeared to be a minor injury that resulted in minimal or no time lost from work. It noted that it had reopened the claim for formal consideration because the medical bills had exceeded \$1,500.00. OWCP informed appellant that additional factual and medical evidence were required to establish his claim, advised him of the type of evidence necessary to establish his claim, and attached a questionnaire for his completion. It afforded him 30 days to submit the requested evidence. OWCP did not receive additional evidence.

By decision dated March 11, 2019, OWCP denied appellant's claim finding that he had not established that the claimed November 15, 2018 employment incident occurred as alleged. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

On March 14, 2019 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review. OWCP received additional evidence.

In a March 21, 2019 duty status report (Form CA-17), Dr. Cheatham noted that appellant underwent left shoulder surgery. He held appellant off work through April 1, 2019. The record indicates that appellant returned to full duty on April 1, 2019.

Dr. Cheatham noted in a June 24, 2019 report that appellant was four months status post left shoulder arthroscopy with debridement of the proximal biceps tendon stump, subacromial decompression, and open distal clavicle excision. Appellant had returned to full duty, with intermittent mild pain and weakness.

In a June 26, 2019 report, Dr. Cheatham noted that while at work on November 15, 2019, appellant attempted to ring a doorbell when he felt a pop in his left shoulder and arm, with the onset of immediate pain. Appellant had no prior upper extremity problems. A magnetic resonance imaging (MRI) scan confirmed a left biceps tendon rupture and massive rotator cuff tear with moderate atrophy indicative of a chronic injury. Dr. Cheatham operated on February 19, 2019, revealing a proximal biceps tendon rupture and an irreparable left rotator cuff tear. He also shaved the distal clavicle due to existing arthritis. Appellant had returned to work following surgery with residual pain and persistent weakness. Dr. Cheatham opined that the November 15, 2018 employment incident caused a left proximal biceps tendon rupture and aggravation of a preexisting rotator cuff tear, as appellant had no prior left upper extremity symptoms.

At the hearing, held July 16, 2019, appellant asserted that, on November 15, 2019, he was holding an umbrella in his right hand and carrying parcels in his left arm. He reached upward with his left hand to ring a doorbell and experienced the immediate onset of severe pain. Appellant submitted additional evidence.

In an operative report dated February 19, 2019, Dr. Cheatham diagnosed a massive left rotator cuff tear, rupture of the left proximal biceps tendon, and left acromioclavicular joint arthritis. He performed left shoulder arthroscopy with debridement of the proximal biceps tendon stump, arthroscopic subacromial decompression, and open left distal clavicle excision.

Dr. Cheatham provided periodic progress notes in February and March 2019 during appellant's surgical recuperation.

In an August 8, 2019 report, Dr. Cheatham noted the history of injury of ringing a doorbell while at work on November 15, 2018 and diagnosed left biceps tendon rupture and left shoulder deformity. He opined that, "[a]lthough the mechanism of injury is unusual to result in this injury it is still distinctly possible. I therefore am of the opinion within a reasonable degree of medical certainty that [appellant's] left proximal biceps tendon rupture was proximately caused by the work incident on November 15, 2018."<sup>7</sup>

By decision dated September 17, 2019, OWCP's hearing representative modified the March 11, 2019 decision finding that the evidence of record was sufficient to establish the November 15, 2018 employment incident as factual. However, she continued to deny the claim, as the evidence of record was insufficient to establish causal relationship between the diagnosed left shoulder conditions and the accepted November 15, 2018 employment incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>8</sup> has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation of FECA,<sup>9</sup> that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>10</sup> These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>11</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the

---

<sup>7</sup> Appellant also provided September 4, 2019 emergency department reports documenting a nondisplaced fracture of the lateral margin of the left ninth rib sustained in an unspecified fall.

<sup>8</sup> *Supra* note 3.

<sup>9</sup> *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>10</sup> *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>11</sup> *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

time, place, and in the manner alleged. The second component is whether the employment incident caused a personal injury and this component can be established only by medical evidence.<sup>12</sup>

The medical evidence required to establish a causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.<sup>13</sup> The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and specific employment factors identified by the employee.<sup>14</sup>

### **ANALYSIS**

The Board finds that this case is not in posture for decision.

In reports from November 28, 2018 to August 8, 2019, Dr. Cheatham provided a consistent, comprehensive understanding of the claimed mechanism of injury. He also performed surgery on February 19, 2019 and described, in detail, the injuries caused by the accepted November 15, 2018 employment incident, which were confirmed by diagnostic studies.

In his June 26 and August 8, 2019 reports, Dr. Cheatham reiterated that the accepted employment incident of appellant reaching upward with his left hand to ring a doorbell while cradling packages in his left arm was competent to cause the proximal left biceps tendon rupture and aggravate a preexisting rotator cuff tear. He also noted that there were no prior problems in this area. Dr. Cheatham's medical reports therefore raise an uncontroverted inference of causal relationship between appellant's claimed left rotator cuff tear and biceps tendon rupture and the accepted November 15, 2018 employment incident. Further development of appellant's claim is therefore required.<sup>15</sup>

It is well established that proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter. While the claimant has the burden of proof to establish entitlement to compensation, OWCP shares the responsibility in the development of the evidence to see that justice is done.<sup>16</sup>

On remand OWCP shall prepare a statement of accepted facts setting forth the accepted employment incident and refer appellant to a second opinion physician in the appropriate field of

---

<sup>12</sup> *C.H.*, Docket No. 20-0440 (issued August 3, 2020); *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>13</sup> *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>14</sup> *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>15</sup> *C.H.*, *supra* note 12; *see K.T.*, Docket No. 19-1436 (issued February 21, 2020).

<sup>16</sup> *Y.D.*, Docket No. 19-1200 (issued April 6, 2020).

medicine for an examination and a rationalized medical opinion as to whether the accepted employment incident either caused or aggravated the diagnosed left shoulder conditions.<sup>17</sup> If the second opinion physician disagrees with the pathophysiological explanation provided by Dr. Cheatham, he or she must provide a fully-rationalized explanation as to why Dr. Cheatham's opinion is unsupported. After this and other such further development deemed necessary, OWCP shall issue a *de novo* decision.

### **CONCLUSION**

The Board finds that the case is not in posture for decision.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the September 17, 2019 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: December 9, 2020  
Washington, DC

Christopher J. Godfrey, Deputy Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board

---

<sup>17</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013). *See R.D.*, Docket No. 18-1551 (issued March 1, 2019).